

CITY CLERK
(712) 328-4616

COUNCIL AGENDA, CITY OF COUNCIL BLUFFS, IOWA
REGULAR MEETING JUNE 23, 2008 7:00 P.M.
COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL
209 PEARL STREET

AGENDA

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER

3. CONSENT AGENDA

- A. Approval of agenda and tape recording of this proceeding be incorporated into official minutes
- B. Reading, correction and approval of minutes of the June 9, 2008 regular Council meeting
- C. Ordinance 6000, amending the 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.10 which is entitled "Licensing of the Mechanical Trade", by amending parts of Section 13.10.070 entitled "Licensing – Generally" and also Section 13.10.080 entitled "Licensing – Fees" to be codified.
- D. Ordinance 6001, amending Chapter 4.12 "Solid Waste Collection and Disposal" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing and reenacting Sections 4.12.010 "Definitions", 4.12.020 "Legislative findings", 4.12.040 "Storage of solid waste prohibited", 4.12.060 "Collection and disposal – Rules and regulations", and 4.12.110 "Collection fees – Residential"
- E. Ordinance 6002, amending Chapter 2.08 "Schedule of Fees" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 2.08.040 "Fees and charges authorized in Title 4", and by enacting a new Section 2.08.040 "Fees and charges authorized in Title 4" to amend fees for solid waste collection and disposal
- F. Resolution 08-181, intent to vacate 24th Avenue right-of-way between south 18th and south 19th streets and abutting lot 6, Wyatt 2nd subdivision and abutting blocks 21 and 36, Railroad Addition, city of council bluffs, Pottawattamie County, Iowa and setting public hearing for Monday, July 14, 2008 at 7:00 p.m.
- G. Resolution 08-182, intent to vacate the west north/south alley in Mc gee's Subdivision of block 21, Hughes and Doniphan's Addition, City of Council Bluffs, Pottawattamie County, Iowa, and setting public hearing for Monday, July 14, 2008 at 7:00 p.m.
- H. Resolution 08-183, intent to vacate the north/south alley abutting lots 9 through 16, block 2, Mynster Place and lot 4, Auditor's Subdivision of the nw1/4 sw1/4 of section 19-75-43 and also abutting lot 66 and out lot a, Vergamini seventh Addition, City of Council Bluffs, Pottawattamie County, Iowa and setting public hearing for Monday, July 14, 2008 at 7:00 p.m.
- I. Resolution 08-184, intent to dispose of excess city property vacated by Ordinance 4800, dated June 22, 1987 and setting public hearing for Monday, July 14, 2008 at 7:00 p.m.



- J. Resolution 08-185, requesting the City Clerk to publish notice and set public hearing for Monday, July 14, 2008 at 7:00 p.m. regarding the assessing of costs for securing certain buildings within the City of Council Bluffs, Iowa

4. PUBLIC HEARINGS:

- A. Resolution 08-186, to vacate and dispose of the east/west alley in block 10, Mullin's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa
- B. Resolution 08-187, authorizing the vacation of South 15th Street abutting Blocks 4 and 5, both north/south alleys in Block 6 and South 17th Street abutting the north 82.5 feet of Blocks 6 and 7, all in Railroad Addition, City of Council Bluffs, Pottawattamie County, Iowa
- C. Ordinance 6003, amending the zoning map by changing the district designation of certain property located along the west side of State Orchard Road, north of Greenview Road, in Council Bluffs, from its present designation as R-3/Low Density Multi-Family Residential with a planned residential overlay to C-2/Commercial

5. ORDINANCES ON THIRD READING:

- A. Ordinance 5996, amending Chapter 1.10 "Administration and Personnel" of the Municipal Code by repealing and reenacting Section 1.10.020 "Compensation of Mayor"

6. ORDINANCES ON SECOND READING:

- A. Ordinance 6004, repealing Ordinance Nos. 5990 and 5991, and to amend the effective date for Ordinance Nos. 5984, 5988, and 5989, all passed and approved on April 14, 2008

7. ORDINANCES ON FIRST READING:

- A. Ordinance 6005, amending the zoning map by changing the district designation of certain property located at 110 South 35th Street, from its present designation as C-2/Commercial to R-4/High Density Multi-Residential; and property located at 3527 1st Avenue from its present designation as R-3/Low Density Multi-Family residential to R-4/High Density Multi-Family Residential, and setting public hearing for July 14, 2008 at 7:00 p.m.

8. RESOLUTIONS:

- A. Resolution 08-188, authorizing the Mayor to execute two \$200,000 U.S. Environmental Protection Agency (EPA) Brownfields assessment grants for the City of Council Bluffs, for a total grant amount of \$400,000
- B. Resolution 08-189, authorizing the Mayor to submit an Iowa Great Places Grant application and authorizing the Mayor to enter into a contract if approved.
- C. Resolution 08-190, authorizing the purchase of one (1) ambulance module from Foster Coach
- D. Resolution 08-191, rejecting the bids received for the towing contract and extending the current contract by two months
- E. Resolution 08-192, authorizing the Mayor to execute a purchase agreement between the City of Council Bluffs and EJS Land, LLC
- F. Resolution 08-193, abolishing two Utility Worker II positions and creating two Equipment Operator 1 positions in the Street & Sewer Division of the Public Works Department effective July 1, 2008

- G. Resolution 08-194, accepting the completion of the Trolley Park project and directing the Interim Director of Finance to release the retainage of \$21,021.20 in 30 days
- H. Resolution 08-195, authorizing the acquisition of an easement from EJS Land LLC for public and private utilities right-of-way
- I. Resolution 08-196, authorizing the acquisition of a 100 foot easement from Robert D. Adkins-Sons for public and private utilities right-of-way
- J. Resolution 08-197, authorizing the acquisition of an easement for public and private utilities right-of-way from Bunge North America, Inc.
- K. Resolution 08-198, authorizing the Mayor to execute an agreement entitled "Agreement Regarding Acquisition of Utility Corridor" between the City and Council Bluffs Industrial Foundation, Inc. (CBIF)
- L. Resolution 08-199, authorizing the awarding of bid for construction of the Southwest Iowa Regional Fire Training Facility to Leazenby Construction, Inc.

9. MAYOR APPOINTMENTS

Municipal Housing Agency

Re-appoint Sharon Finerty, Catherine Damgaard, Bobbette Behrens with terms to expire 7/31/10

10. LETTERS FROM CITIZENS

- A. Michael W. Carr, Sons of Union Veterans of the Civil War
- B. Unsigned communication regarding unfenced swimming pools

11. RECEIVE AND FILE ITEMS:

- A. Water Works Annual Report (provided under separate cover)
- B. List of Bills, May 31, 2008
- C. Cash Balance Statement, May 31, 2008
- D. Offer to Buy, 929 4th Avenue
- E. Six (6) Notice of Claim/Loss
- F. Five (5) Notice to Redeem from Tax Sale:
 - a) 601 Avenue E
 - b) 12998 192nd Street
 - c) 206 Greenwood Street
 - d) 733 Lindberg Drive
 - e) 737 Lindberg Drive

12. APPLICATIONS FOR PERMITS AND CANCELLATIONS:

- A. Application for liquor license renewals:
 - a) Bucky's Express, 1759 Madison Avenue
 - b) Eagles Club, 1530 Avenue F
 - c) Jack Daddy's Bar & Grill, 2327 S 24th Street
 - d) Scott Street Pub, 25 Scott Street

B. Application for premises update, for liquor license:

(This is an application for a separate license to cover only the Stir portion; another license will cover the rest of the premises)

a) Harrah's Casino, Stir, 1 Harrah's Blvd

b) Harrah's Casino, 1 Harrah's Blvd

C. Applications for Iowa retail cigarette/tobacco permit:

a) Andrews Lounge, 1210 N 25th Street

i) No Frills Supermarket, 1817 Broadway

b) Caddy Shack, 1426 4th Avenue

j) Pilot Travel Center, 2647 S 24th Street

c) BPO Elks, 380 McKenzie Avenue

k) Pump N Munch Too, 1220 North 25th Street

d) Kwik Shop #532, 1602 Avenue G

e) Kwik Shop #527, 3632 Avenue G

f) Mickey's Razzle Dazzle

l) Sinclair Retail, 130 S North 25th Street

g) Mortensen SuperMarket 810 16th Avenue

m) U-Stop #19, 1928 Sherwood Drive

h) No Frills Supermarket, 1801 Valley View

n) U-Stop #20, 701 32nd Avenue

o) Walgreens, 535 E Broadway

13. CITIZENS REQUEST TO BE HEARD:

14. ADJOURNMENT

RECORD OF PROCEEDINGS

- CALL TO ORDER** A regular meeting of the Council Bluffs City Council was called to order by Mayor Tom Hanafan at 7:01 p.m., June 9, 2008.
- ATTENDANCE** Present: Council members Scott Belt, Lynne Branigan, Matt Schultz, Matt Walsh. Mayor Tom Hanafan.
Absent: Council member Darren Bates
Staff present: Richard Wade, City Attorney; Judith Ridgeley, City Clerk
- CONSENT AGENDA** Walsh and Belt moved and seconded to remove Item 4A from the agenda and approval of the agenda as amended. Unanimous
- PUBLIC HEARINGS**
Resolution 08-117 Held public hearing to approve disposal of City property by granting a perpetual electric and communications easement to MidAmerican Energy, Resolution 08-117. Mr. Chris Pose, 317 6th Avenue, Des Moines, Iowa stated his support for the Resolution. Walsh and Schultz moved and seconded approval of Resolution 08-117. 3 Aye, 1 Nay (Schultz)
- Resolution 08-157** Held public hearing to authorize acceptance of two easements subject to consent of MidAmerican Energy in connection with the establishment of a utilities corridor, Resolution 08-157. Schultz and Walsh moved and seconded approval of Resolution 08-157: Unanimous
- Resolution 08-158** Held public hearing to authorize acquisition of easement for public and private utilities right-of-way from the MidAmerican Energy Company. Walsh and Schultz moved and seconded approval of Resolution 08-158. Unanimous
- Resolution 08-165** Held public hearing to determine an area to be an economic development area and that the rehabilitation of such area is necessary, and to adopt Amendment No. 1 to the Old Airport Urban Renewal Plan therefore. Branigan and Belt moved and seconded approval of Resolution 08-165. Unanimous
- Resolution 08-166** Held public hearing to authorize disposal of City property lying west of 514 Harrison Street. Walsh and Belt moved and seconded approval of Resolution 08-166. Belt amended the motion to restrict the mining or building of any structure on the west 60 feet of the property. Schultz seconded. VOTE ON AMENDMENT: Unanimous; VOTE ON ORIGINAL RESOLUTION: 3 Aye, 1 Nay (Branigan)
- Resolution 08-167** Held public hearing to authorize disposal of City property by granting an ingress-egress access easement to MidAmerican Energy Company. Belt and Branigan moved and seconded approval of Resolution 08-167. Unanimous
- Resolution 08-168** Held public hearing to approve an amended annual budget for the Fiscal Year ending June 20, 2008. Branigan and Belt moved and seconded approval of Resolution 08-168. Unanimous
- Resolution 08-169** Held public hearing to approve plans, specifications, form of contract, etc., for site work and paving phase of Regional Fire Training Facility project. Belt and Branigan moved and seconded approval of

RECORD OF PROCEEDINGS

Resolution 08-169. Unanimous

ORDINANCES ON SECOND READING

Ordinance 5981

Branigan and Walsh moved and seconded to deny Ordinance 5981, changing the district designation for property located at 427 21st Avenue from R-2 to C-2. Mr. Mike Collins requested that he be allowed to use the property for employee parking. Ms. Roberta Jay, 522 22nd Avenue spoke against the ordinance. Unanimous

Ordinance 5996

Branigan and Walsh moved and seconded approval of Ordinance 5996 regarding compensation of mayor. Belt and Walsh amended the motion to read as follows: "Section 1. Effective January 1, 2010, the compensation for the mayor shall be the lesser of \$91,930 or \$85,817 multiplied by the actual cost of living adjustments for the two years preceding the effective date of the increase, or 3.5% for those years, whichever is less. Thereafter, compensation for the mayor shall increase by either 3.5% or the cost of living increase for the previous year as determined by the Consumer Price Index for the Kansas City Region, whichever is less". VOICE VOTE ON AMENDMENT: 3 Aye, 1 Nay (Schultz) VOICE VOTE ON ORIGINAL MOTION: 3 Aye, 1 Nay (Schultz)

Ordinance 6000

Belt and Walsh moved and seconded to approve Ordinance 6000, amending the Municipal Code, "Building and Construction", "Licensing of the Mechanical Trade" Unanimous

Ordinance 6001

Branigan and Walsh moved and seconded approval of Ordinance 6001, amending the Municipal Code, "Solid Waste Collection and Disposal". Unanimous

Ordinance 6002

Belt and Walsh moved and seconded approval of Ordinance 6002, amending the Municipal Code "Schedule of Fees" for solid waste. Unanimous

ORDINANCES ON FIRST READING

Ordinance 6003

Schultz and Branigan moved and seconded to set public hearing for Ordinance 6003, amending the zoning map by changing the district designation of property located on the west side of State Orchard Road, north of Greenview Road from R-3 to C-2, for 7:00 p.m. on June 23, 2008. Ms. Rita Wilmont, 707 Redwood Drive spoke in opposition to the ordinance. Ms. Maire Lanshk, 125 Glen Oaks also spoke against the ordinance. Unanimous

Ordinance 6004

Belt and Schultz moved and seconded to repeal Ordinance 5990 and 5991 and to amend the effective date from Ordinances 5984, 5988, and 5989 all passed and approved on April 14, 2008. Unanimous

RESOLUTIONS

Resolution 08-170

Walsh and Schultz moved and seconded approval of Resolution 08-170, amending the development plan for Mall of the Bluffs to construct a new Bucky's Express between the entrance to the Mall of the Bluffs and the Interstate 80 off ramp. Unanimous

Resolution 08-171

Belt and Schultz moved and seconded to approve Resolution 08-171, concurring with IDOT and rejecting all bids for the fiber and PTZ camera installation. Unanimous

Resolution 08-172

Branigan and Schultz moved and seconded to approve Resolution 08-172, making changes to the authorized staffing levels of the City.

RECORD OF PROCEEDINGS

Unanimous

Resolution 08-173 Branigan and Walsh moved and seconded to authorize City officials to endorse financial instruments on behalf of the City, Resolution 08-173. Unanimous

Resolution 08-174 Belt and Schultz moved and seconded approval of Resolution 08-174, authorizing the Mayor to execute an agreement with HGM Associates for engineering services in connection with the Avenue G Viaduct/Corridor Project V. Unanimous

Resolution 08-175 Branigan and Walsh moved and seconded approval of Resolution 08-175, authorizing the Mayor to acquire property at 850 West Graham Avenue as part of the Playland Park land mitigation project. Unanimous

Resolution 08-176 Branigan and Belt moved and seconded approval of Resolution 08-176, authorizing a joint application to the Iowa Department of Economic Development by the City of Council Bluffs and Telmar Network Technology for benefits under the community economic betterment account and the targeted jobs withholding tax credit programs and approving the withholding and development agreements between Telmar Network Technology and the City. Unanimous

Resolution 08-177 Belt and Schultz moved and seconded approval of Resolution 08-177, accepting the work of R.D. Blue in connection with the Locust Lodge Avenue Rehabilitation. Unanimous

Resolution 08-178 Walsh and Belt moved and seconded to authorize the Mayor to execute a Development Agreement with HCC Investments, LLC and St. Patrick Catholic Church, Resolution 08-178. Unanimous

Resolution 08-179 Belt and Schultz moved and seconded to approve Resolution 08-179, appointing Bankers Trust Company to serve as paying agent, that the form of Tax Exemption Certificate be placed on file and approved, and that the form of Continuing Disclosure Certificate be placed on file and approved. Unanimous

Resolution 08-180 Belt and Branigan moved and seconded to authorize and provide for the issuance of \$7,615,000 general obligation bonds, series 2008 and to levy a tax to pay the bonds. Unanimous

MAYOR'S APPOINTMENTS Belt and Walsh moved and seconded to concur with the Mayor's appointment to the Library Board of Trustees. Unanimous

RECEIVE AND FILE ITEMS Belt and Schultz moved and seconded to receive and file the following: Zoning Board of Adjustment, Annual Report; Offer to buy vacated alley; and three notices of expiration of rights of redemption. Unanimous

APPLICATIONS FOR PERMITS OR CANCELLATIONS Walsh and Branigan moved and seconded approval of the following liquor license renewals: American Legion; Madison Avenue Ampride; and Thunderbowl. Unanimous

Belt and Walsh moved and seconded approval of the following two

RECORD OF PROCEEDINGS

applications for new liquor license: No Frills Supermarkets at 1801 Valley View Drive and 1817 West Broadway.

Walsh and Belt moved and seconded approval of the request for modification of premises for Quaker Steak and Lube, Branigan and Schultz moved and seconded that requirements for the outdoor dining set forth by the City Attorney be incorporated into the approval. VOICE VOTE ON AMENDMENT: Unanimous; VOICE VOTE ON ORIGINAL MOTION: Unanimous

Walsh and Branigan moved and seconded approval of the adult entertainment business license for Romantix Adult Emporium. 3 Aye, 1 Nay (Branigan)

Walsh and Belt moved and seconded approval of 38 applications for Iowa retail cigarette/tobacco permits.

CITIZEN'S REQUEST TO BE HEARD

Mr. John Kobold, 465 Park Avenue (withdrew application)

Mr. Ed Kermoade, 3127 10th Avenue presented a petition to City Council containing signatures of residents concerned with sewage back up on 10th and 11th Avenues. Branigan and Belt moved and seconded to Receive and File the petitions. Unanimous Schultz and Walsh moved and seconded that a thorough investigation regarding the sewage backup be done and to report back to City Council Unanimous.

Mr. Richard Faber, 125 Langstrom Street expressed his views regarding the carnival, at the recent Celebrate CB activities.

Mr. Jean Plourde explained the program he runs with his wife, Gabriel's Corner, located at 16th and 2nd Avenue. Schultz and Branigan moved and seconded to Receive and File the distributed materials. Unanimous

ADJOURNMENT

Schultz and Belt moved and seconded to adjourn the meeting at 7:52 p.m. Unanimous

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City Clerk

Council Communication

Department: Public Works Division: Building Case/Project No.	Ordinance No. <u>6000</u>	First Reading <u>May 12, 2008</u> Second Reading Third Reading
Subject/Title		
AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.10 which is entitled "Licensing of the Mechanical Trade", by amending parts of Section 13.10.070 entitled "Licensing – Generally" and also Section 13.10.080 entitled "Licensing – Fees" to be codified.		
Background/Discussion		
On April 21, 2008, the City was informed by the Iowa Department of Public Health that the Governor signed into law HF2390 which stated that local jurisdictions that issued licenses on July 1, 2008, are required to continue to issue license until June 30, 2009. On July 1, 2009, all local licensing programs become null and void.		
Amendments		
This ordinance is amending verbiage in Section 13.10.070 and Section 13.10.080		
Recommendation		
The Public Works Director and the Building Official recommend that the City Council favorably consider this proposed ordinance and pass it into law.		

Public Works Director's Signature

Building Official's Signature



Mayor's Signature

ORDINANCE No. 6000

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled “Buildings and Construction” Chapter 13.10 which is entitled “Licensing of the Mechanical Trade”, by amending parts of Section 13.10.070 entitled “Licensing – Generally” and also Section 13.10.080 entitled “Licensing – Fees” to be codified.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. AMENDMENT. That the 2005 edition of the Municipal Code of Council Bluffs, Iowa, Title 13 entitled “Buildings and Construction” Chapter 13.10 entitled “Licensing of the Mechanical Trade”, is hereby amending parts of Section 13.10.070 entitled “Licensing – Generally” which shall be codified and read as follows:

Section 13.10.070(b)

All Council Bluffs mechanical licenses shall expire annually on July 1st and may be renewed upon application of the licensee payment of fee to the City Treasurer. All Council Bluffs mechanical licenses shall expire on July 1, 2008 2009, at which time the City will be prohibited by the State from licensing the mechanical trade.

Section 13.10.070(c)

Any Licensee whose license has expired shall have the right to renew such license, without examination, on or before ~~the following July 1st~~ sixty calendar days after license expiration.

SECTION 2. AMENDMENT. That the 2005 edition of the Municipal Code of Council Bluffs, Iowa, Title 13 entitled “Buildings and Construction” Chapter 13.10 entitled “Licensing of the Mechanical Trade”, is hereby amending parts of Section 13.10.080 entitled “Licensing – Fees” which shall be codified and read as follows:

Section 13.10.080

Before a license shall be issued under this chapter, the applicant shall pay the ~~biennial~~ license fees as set forth in the current schedule of fees, adopted by the city council.

If an expired license is not renewed by the ~~following June 15th~~ license expiration date, there will be a penalty fee as found in Chapter 2.08 of this code in addition to the license fee.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed including Ordinance #5985.

Hereby, Municipal Code Chapter 13.10 entitled “Licensing of the Mechanical Trade” shall be repealed in its entirety on July 1, 2009.

SECTION 4. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 5. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication on (- -2008) as by law provided.

PASSED

AND

APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: May 12, 2008

Public Hearing:

Second Consideration:

Third Consideration:

Council Communication

Department: Health – Solid Waste Division Case/Project No. Applicant: Donn Dierks	Ordinance No. <u>6001</u> Resolution No. <u> </u>	1 st Reading: <u>May 5, 2008</u>
Subject/Title Changes to Municipal Code - Chapter 4.12 – Solid Waste Collection and Disposal Changes to Municipal Code - Chapter 2.08.040 – Fees and charges under 4.12.110(a)(b) & (c)		
Background/Discussion With the implementation of curbside recycling, there are changes to Chapter 4.12 of the Municipal Code that are needed. Moving from unlimited solid waste collection to a limited collection is the most dramatic change. New definitions of curbside recycling and recyclable materials were also added. Yard waste and recyclable collections were explained in detail. With the new city collection contractor starting on July 1 st , there is a need to increase the garbage collection fee. The low income allowance was increased as was the low income fee. Since we are putting limitations on the amount of trash collected, a extra bag charge was also included.		
Recommendation I would recommend that the Mayor and City Council approve the revisions to Chapter 4.12 and to the fee changes in 2.08.040.		

Department Head

Mayor Signature

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Inter-Office Memo
City Of Council Bluffs
Department of Public Health

5/5/08

To: Mayor Hanafan

From: Donn Dierks – Director of Public Health

RE: Changes to Municipal Code – Chapter 4.12 – Solid Waste Collection and Disposal as and subsequent Schedule of Fees Ordinance Raising the Residential Solid Waste Collection and Disposal Fees from \$12.00/month to \$16.00/month.

With the implementation of curbside recycling Chapter 4.12 had to amended to include several changes in the way collection of solid waste will be conducted in Council Bluffs. The major change will put a limitation on the number of bags of refuse a residential customer can place at curbside.

With the approval of the new solid collection contract, current fees will not adequately cover the expenses incurred by the Solid Waste Enterprise Fund. The attached spreadsheet compares the expenses and revenues for the five year contractual period.

Consequently, I would recommend the changes to Chapter 4.12 be approved as well as current rate for residential solid waste collection service, disposal and other solid waste management programs be increased by \$4/month to a rate of \$192.00/year (\$16.00/month).

Concur: Thomas P. Hanafan – Mayor

ORDINANCE NO. 6001

AN ORDINANCE to amend Chapter 4.12 "Solid Waste Collection and Disposal" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing and reenacting Sections 4.12.010 "Definitions", 4.12.020 "Legislative findings", 4.12.040 "Storage of solid waste prohibited", 4.12.060 "Collection and disposal – Rules and regulations", and 4.12.110 "Collection fees – Residential",.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 4.12 "Solid Waste Collection and Disposal" of the 2005

Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 4.12.010 "Definitions", to read as follows:

4.12.010 Definitions.

The following words and phrases when used in this chapter shall have the following meanings:

- (1) "Administrative authority" means the mayor or his/her designee.
- (2) "Bag" means a plastic or other sack designed to store solid waste with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed thirty (30) pounds. Bags shall not have a capacity greater than thirty-three gallons.
- (3) "Bulk container" means a receptacle designed for the storage of a large quantity of solid waste, not exceeding nine cubic yards, and designed for automated collection by collection vehicles, and includes what is popularly referred to as a "dumpster."
- (4) "Bulky waste" means large household appliances; stoves, refrigerators, water heater tanks, washing machines, toilets, bathtubs, furniture, carpets and rugs, and other household waste materials bundled so as not to exceed sixty pounds or four feet in length, and two feet in diameter.
- (5) "Bundle" means trees, shrubs and brush trimmings, newspaper and magazines, or other non-household waste materials securely tied together forming an easily handled package not exceeding four feet in length, and two feet in diameter or sixty pounds in weight.
- (6) "Byproducts" means and includes:
 - (a) All material produced, developed or generated incidental to the operation of any business, which is not the principal object of production of such business, but which material, due to its nature, can be sold by the producer thereof at a price greater than the cost of hauling such material to the point of delivery;
 - (b) Material which, due to its nature, can be sold by the producer thereof, at the point of production, for a valuable consideration;
 - (c) Material that the owner or producer thereof can, due to its nature, have removed from his or her premises without cost to him;
 - (d) The following, but not limited to the following items: suet, tallow, bones, and meat

trimmings; leafy vegetable matter such as lettuce trimmings, cabbage trimmings, carrot tops, and corn husks; stale bread and pastry; fruit or vegetables no longer fit for human consumption; and

(e) Any material which the administrative authority determines to be byproducts.

(7) "City contract agent" means the person, firm, or corporation with which the city has contracted to collect the residential solid waste of its residential customers.

(8) "Commercial collection agent" means a person, firm, or corporation engaged in the business of collecting solid waste from one or more commercial establishments and/or residential premises for disposal.

(9) "Commercial establishment" means any hotel, motel, trailer court or park, restaurant, market, grocery store, hospital, church, school, country club, private club, store, business concern, farm operation, industrial plant, manufacturing facility, processing facility, service establishment, regardless whether operated for profit or not.

(10) "Construction debris" means waste building materials resulting from construction, remodeling, repair or demolition operation, including but not limited to wood, concrete, brick, glass, plaster, plasterboard, and roofing materials.

(11) "Container" means a receptacle with handles and with a capacity of greater than twenty (20) gallons but not more than thirty-two (32) gallons constructed of plastic, metal, or fiberglass and having a tight-fitting lid capable of preventing entrance into the container by vectors. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed sixty pounds. Other containers agreeable to both city and contractor may be used.

(12) "Curbside" means that portion of right-of-way immediately adjacent to the curb or to the traveled portion in the case of a street, or immediately adjacent to the traveled portion in the case of a paved or approved alley.

(13) "Curbside recycling" means the weekly collection of recyclable materials at curbside by the City's contract agent.

~~(13)~~ (14) "Dead animals" means animals or portions thereof that have expired from any cause, except those slaughtered or killed for human use.

~~(14)~~ (15) "Disabled" means any person who (by advanced age or otherwise) lacks competent power, strength, or physical or mental ability to move solid waste containers of the type specified in these specifications.

~~(15)~~ (16) "Disposal" means the process of removing solid waste from the point of generation and transporting it to an approved disposal site at which it is to be left for permanent keeping or destruction.

~~(16)~~ (17) "Disposal site" means a solid waste depository, including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approval.

~~(17)~~ (18) "Firewood" means any wood cut into a length of not more than thirty (30) inches or a diameter of not more than eight inches and free of any paint, varnish, or other preservative.

~~(18)~~ (19) "Garbage" means every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation of, decay or decomposition of meats, including but not by way of limitation putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents; except in all cases any matter hereinafter included in the definition of "bulky waste," "construction debris," "dead animals," "hazardous waste," "rubbish," or "stable

matter."

~~(19)~~ (20) "Hazardous waste" means any chemical or compound or mixture thereof, substance, or article which, if improperly used, handled, transported, processed, or stored, may constitute a danger to health or may cause damage to property by reason of being explosive, flammable, poisonous, unstable, irritating or otherwise harmful.

(21) "Recyclable materials" means waste that is designated by the city as part of a special collection for processing for reuse, including but not limited to food container glass, aluminum, steel (tin) cans, #1 and #2 plastics, uncontaminated newspapers and glossy paper (magazines) and cardboard shall be considered uncontaminated if they have not been exposed to substances or conditions rendering them unusable for recycling.

~~(20)~~ (22) "Residential customer" means the owner or occupant of a residential premises, or of a condominium dwelling, who is required to place his or her residential solid waste for collection by the city.

~~(21)~~ (23) "Residential premises" means any single-family dwelling or any duplex or two family dwelling within the city as defined by Chapter 15.03 of this code.

~~(22)~~ (24) "Residential solid waste" means all garbage, rubbish and bulky waste generated by a residential customer at the residence or residential unit where such person normally resides.

~~(23)~~ (25) "Rubbish" means all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, tires exclusive of metal rims and not exceeding three feet in diameter, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances and any and all other waste materials not included in the definitions of "bulky waste," "construction debris," "dead animals," "garbage," "hazardous waste," or "stable matter."

~~(24)~~ (26) "Rubble" means inorganic construction debris such as, but not limited to, the following items: brick, concrete, asphalt, stone, concrete block and clay tile.

~~(25)~~ (27) "Solid waste" means and includes bulky waste, construction debris, dead animals, garbage, hazardous wastes, and rubbish. "Solid waste" shall not include by products or rubble as defined herein.

~~(26)~~ (28) "Stable matter" means all manure and other waste matter normally accumulated in or about a stable, or in any animal, livestock, or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

~~(27)~~ (29) "Yard waste" shall include grass clippings, leaves, garden foliage, tree trimmings, hedge trimmings, flower trimmings, dead plants, weeds and sawdust.

SECTION 2. That Chapter 4.12 "Solid Waste Collection and Disposal" of the 2005

Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 4.12.020 "Legislative findings", to read as follows:

4.12.020 Legislative findings.

The city council finds as follows:

(1) That an exclusive municipal system for the collection of all residential solid waste is

necessary for the preservation of the public health, welfare and safety;

(2) That the periodic collection of solid waste from all places in the city benefits all occupants of places and premises in the city;

(3) That fees are to be assessed for the collection of solid waste as set forth in Section 2.08.040 Schedule of fees. Unpaid fees which are one hundred twenty (120) days delinquent may be assessed against the premises where the solid waste is produced or generated, regardless of whether such persons place such solid waste for collection in the manner prescribed in this chapter and not accumulate or scatter such solid waste in order to avoid payment of the charges imposed by this chapter. An administrative assessment fee shall be imposed as set forth in the prevailing schedule of fees; and

(4) That ~~while there is some variation in the amount of solid waste produced at single-family or duplex residential locations. With the implementation of curbside recycling, such deviation does not justify the expense of measuring the limitations of quantities at such residential location; because the expense of measuring quantities at such residential location would be greater than the extra cost of hauling additional quantities of solid waste from a residential location in the city~~ By limiting the quantities produced, participation in the curbside recycling program will be enhanced.

SECTION 3. That Chapter 4.12 “Solid Waste Collection and Disposal” of the 2005

Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing

and reenacting Section 4.12.040 “Storage of solid waste prohibited”, to read as follows:

4.12.040 Storage of solid waste prohibited.

No person, firm or corporation owning, controlling or occupying any residential premises, commercial establishment, apartment or condominium shall permit the storage on such premises, or on other private or public property, of any garbage, rubbish, bulky waste, dead animals, stable matter, construction debris, hazardous waste, rubble, sewage effluent, byproducts, stagnant water, or any other substance that would constitute a hazard to health or property, with the following exceptions:

(1) The storage of firewood on residential premises for use by the owner/occupant thereof. Firewood needs to be neatly stacked and kept at least six (6) inches off the ground to prevent rodent harborage; and

(2) The storage of any material in connection with a business, wherein the storage of such material is customarily incidental to such business, provided such storage is not contrary to zoning ordinances pertaining to outdoor storage. For purposes of this section, "storage" means the keeping of any item on a premises for other than immediate use, sale or disposal.

SECTION 4. That Chapter 4.12 “Solid Waste Collection and Disposal” of the 2005

Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing

and reenacting Section 4.12.060 “Collection and disposal – Rules and regulations”, to read as follows:

4.12.060 Collection and disposal—Rules and regulations.

(a) Collection from Residential Customers at Residential Premises.

(1) Residential solid waste shall be placed for collection in bags or containers as herein defined, or shall be properly bundled. Bags and containers shall not exceed the size and weight specified in their respective definitions. Bags must be securely tied or sealed, and containers must have a firm-fitting lid in place to prevent spillage of solid waste therefrom.

(2) Residential customers shall place residential solid waste, with the exception of bulky wastes, as defined herein, for regular weekly collection by the city or the city’s contract agent. ~~An unlimited amount of residential solid waste may be placed~~ Residential customers shall be limited to the equivalent of three (3) – 32 gallon cans or bags or one (1) – ninety-five gallon poly cart for collection on any collection day by a residential customer, but such customer may only place for collection the residential solid waste actually generated by that resident at that residential premises. Residential customers shall be responsible for purchasing a sticker for each additional bag placed at curbside on a weekly basis that is over the collection limit totaling (96) ninety-six gallons of refuse. The fees are to be assessed for extra bags for the collection of solid waste as set forth in Section 2.08.040 ‘Schedule of Fees’.

(i) Residential customers shall place residential yard waste for regular weekly collection by the city or city’s contract agent. An unlimited amount of yard waste may be placed for collection on any collection day, for the months April through November, by a residential customer. Such customer may only place for collection the yard waste actually generated by the resident at the residential premises.

(ii) Separation of Yard Waste Required. All yard waste shall be separated by the residential customer from all other solid waste and either shall be: composted on the premises; placed in a two-ply kraft paper bag affixed with a Y sticker; placed in 32 gallon trash receptacle or 95 gallon city approved poly-cart; or branches tied with string and/or twine for collection by the city’s collection contractor.

(iii) Residential customers shall place recyclable material for regular weekly collection by the city or city’s contract agent. An unlimited amount of recyclable material may be placed for collection on any collection day by a residential customer. There will be alternating weeks for the collection of recyclable materials. Blue weeks are weeks that paper, cardboard and glass will be collected. Green weeks are weeks that plastic and metal cans will be collected. Each residential customer shall be given (2) two – 18 gallon containers for the storage of recyclable materials.

(3) Residential customers may place limited amounts of construction debris, as defined herein, for regular weekly garbage collection by the city or the city’s contract agent, provided that such material must be bundled in bundles not exceeding the size and weight set forth in the definition thereof. Concrete, brick and asphalt shingles shall not be collected.

(4) Each residential customer shall place bags, bundles or containers of residential solid waste for collection at curbside immediately in front of his/her residence. A residential customer whose residence is on the corner of two intersecting streets upon which the city or the city’s contract agent operates a residential collection route may, with the concurrence of the administrative

authority, designate which street they will place their residential solid waste for collection, regardless of the street address of such residence. Bags, bundles or containers must be placed within five feet of the curb on a paved street, or within five feet of the traveled portion on an unpaved street. In those instances where alley collection has been authorized by the administrative authority, bags, bundles or containers must be placed within five feet of the paved or traveled portion thereof. Where site conditions would make it unduly difficult for the residential customer to place bags, bundles, or containers within five feet of the curb or traveled way as specified, or where due to such conditions, the city or the city's contract agent cannot pick up bags, bundles or containers therefrom without undue difficulty, the administrative authority may approve an alternate site for collection. Both the residential customer and the city's contract agents shall thereafter be required to use said alternate site for the placement and collection of residential solid waste. When weather or street conditions prevent the collection of residential solid waste on any collection route or portion thereof on any particular regular collection day, the administrative authority may temporarily waive the placement and collection of such solid waste until the next regular collection day for that collection route. After collection has occurred, residential customers shall be required to remove empty containers from the right-of-way for storage until the next collection. Containers may not be stored in the right-of-way or in the front yard setback of any residential premises. Containers shall be stored in such a manner that water will not collect therein.

(5) Each residential customer shall be required to place all bags, bundles and containers of residential solid waste for collection between the hours of 7:00 p.m. on the day preceding collection and 7:00 a.m. on the day of collection for said residence. The collection day for a particular residence shall be determined by reference to the sector within which it is located. The city shall promulgate to each residential customer a schedule indicating in which sector his/her residence is located and indicating when collections will occur in each of the five sectors into which the city is divided for collection purposes.

(6) Bulky wastes, as defined herein, will be collected only upon prior arrangement made by the residential customer with the city's contract agent. Bulky waste collections from a residential customer's premises will be made once monthly on that customer's regular residential solid waste collection day. To arrange for collection of bulky waste items, the residential customer shall be required to contact the city's contract agent on or before the first day of the month for that month's collection. There shall be a limit of (2) two bulky waste collections per year per residential address. The placement of bulky waste items for collection shall, in all other respects, be subject to the same regulations as all other residential solid waste. The volume of material collected shall not exceed 4' x 8' x 4' on any given collection day.

(7) At residential premises or other residential units served by city solid waste collection service wherein a disabled person resides and wherein there is no able-bodied resident available to place solid waste containers, bags or bundles for collection at curbside, the city will arrange to collect such waste at the residence, provided such bags, bundles, or containers are clearly visible from the street at the time of collection. The determination of the administrative authority as to whether or not a person is disabled for purposes of this provision shall be binding upon such person. Such collections will be made on the regular residential collection day for the sector within which such resident is located and subject to all other collection rules and regulations.

(8) In the event that the administrative authority determines that a residential premises is not conveniently accessible for collection by the collection vehicles of either the city or its contract agent, the administrative authority may decline to provide residential collection service to such

residence. In that event, the owner or occupant of that residence shall be required to obtain solid waste collection services from a commercial collection agent.

(9) Provision, Waiver and Denial of City Collection Service. Where there is a mixed commercial and residential use located upon a parcel of property under single ownership and control, the administrative authority may either deny or waive the provision of city collection services to the residential portion thereof if it is determined that such mixed commercial and residential use can be conveniently serviced and will be continuously serviced by a commercial collection agent, or if it is determined that the city's collection services would likely be overburdened by attempting to provide collection services to that parcel. Where a church and its parsonage or rectory are located upon a single parcel of property, the city may provide, and the parsonage or rectory may utilize, city residential solid waste collection services. The administrative authority may agree to provide city collection services to both the church and the parsonage or rectory if it is determined that such collection services can be conveniently provided and will not overburden the city's collection services. The administrative authority may withdraw such service upon its determination that such service can no longer be conveniently provided or that the city's collection service would be overburdened by the continued provision of such service.

(10) Failure to place residential solid waste for collection in appropriate bags, bundles or containers, or in the required location, or at other than the required time on the collection day shall constitute a misdemeanor. However, residential solid waste which is not placed for collection in appropriate bags, bundles, or containers, or in the required location, or during the required time on the collection day, need not be collected by the city or the city's contract agent. In the event that residential solid waste is not collected for appropriate cause, the residential customer involved shall be required to immediately remove such solid waste from curbside and either dispose of it or securely and safely store it for collection on the next collection day. Failure to so remove and either dispose of or store residential solid waste shall constitute a misdemeanor.

(11) In the event that the residential solid waste which a residential customer places for collection spills from the bags, bundles or containers prior to its collection, the city's contract agent will not be required to collect same, and the residential customer shall be required to clean up and place said solid waste for collection on the next collection day. In the event that the city's contract agent spills residential solid waste while collecting or transporting same, such agent shall immediately inform the administrative authority thereof and immediately clean up said spill.

(b) Collection from the Premises of a Commercial Establishment, Apartment or Condominium.

(1) The person, firm or corporation owning or operating (A) a commercial establishment, (B) an apartment house or complex of three or more units which are not separate properties pursuant to a horizontal property regime, or (C) a condominium dwelling which is not served city solid waste collection service shall arrange for the weekly collection and disposal of all solid waste generated therein by either a licensed commercial collection agent or by the employees of such commercial establishment, apartment or condominium, provided that the hauling vehicle is covered by a tarp to prevent spillage and subject to the following rules and regulations.

(2) Each such commercial establishment, apartment or condominium shall place its solid waste for collection in containers or bulk containers as defined in this chapter. Such containers or bulk containers shall be provided either by the owners or operators of the commercial establishment, apartment or condominium, or by their commercial collection agent.

(3) Containers for solid waste from such a commercial establishment, apartment or condominium

may be placed for collection at curbside on the date of collection, provided that said collection day does not coincide with the city's residential collection day in that zone. After collection has occurred, all containers must be removed from the right-of-way. Containers may not be stored in the right-of-way or the front yard setback of a commercial establishment for purposes of collection or storage. The location for placement of containers and bulk containers for collection and storage purposes shall be determined by the commercial establishment and its solid waste collection agent, but shall be subject to the approval of the administrative authority. Containers and bulk containers must be stored and maintained in such a manner that water will not collect therein.

(4) Every person, firm or corporation owning, occupying or operating the premises of such a commercial premises, apartment or condominium, and each tenant or occupant of an individual unit in such apartment or condominium, shall cause all solid waste generated or accumulating therein to be collected and disposed of at least once each week, either by the employees of such commercial establishment, apartment or condominium or by a commercial collection agent, unless collection at a longer interval is authorized by the administrative authority, or unless weekly collection thereof is temporarily waived by the administrative authority due to weather or street conditions.

(5) Byproducts may be collected by someone other than a commercial collection agent, if the byproducts so collected are to be used in the manufacture of another product or in another legally permissible manner.

(6) In the event that a commercial collection agent, or any other person, firm or corporation engaged in the collection or transportation of solid waste, spills such solid waste while collecting or transporting same, such agent, person, firm or corporation shall immediately inform the administrative authority thereof and shall be required to immediately clean up such spill.

(7) All vehicles utilized by any person, firm, commercial collecting agent or corporation for the purpose of solid waste collection and/or transportation must be equipped with a box that is of metal construction or other impervious material, fully enclosed, and leak proof, with the following exception:

(i) The administrative authority may make exceptions to these rules and regulations when undue hardship would result from their literal application, and may also impose further conditions and requirements when necessary to protect the public health, welfare, safety and convenience. The administrative authority is further authorized to make, and from time to time, amend as the need arises, such rules not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper, to effect the proper, expedient, economical and efficient collection and removal of solid waste by either the city or its contract agent, by a commercial establishment, or by a commercial collection agent.

SECTION 5. That Chapter 4.12 "Solid Waste Collection and Disposal" of the 2005

Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing

and reenacting Section 4.12.110 "Collection fees - Residential", to read as follows:

4.12.110 Collection fees—Residential.

(a) The standard residential collection and disposal fee shall be as provided in the prevailing schedule of fees, shall be billed semiannually, shall not be transferable to another property, and

shall not be refundable unless the account is terminated.

(b) A special residential collection and disposal fee is established at one-half the standard residential collection and disposal fee created by subsection (a) of this section. The special residential collection and disposal fee shall be payable annually in advance. Failure to timely pay the special fee as provided in this subsection shall forfeit eligibility for the special fee, and shall reinstate the standard fee established in subsection (a) of this section. A family unit or owner-occupant of residential premises may be eligible for the special fee if the applicant:

(1) Has a combined gross household income which does not exceed thirteen thousand six hundred ninety dollars (~~\$13,000.00~~) \$13,690.00 annually; and

(2) Has timely filed an application with the city of Council Bluffs, Iowa, reciting such facts and requesting the benefits of this provision; and

(3) Has waived any right to confidentiality relating to the information referenced in such application and authorizes or executes a limited power of attorney to the city of Council Bluffs, Iowa, to verify such information from the records of the Iowa Department of Revenue and/or Pottawattamie County social services department; and

(4) Has received notification by the city that such application has been approved by the mayor or his/her designee; and

(5) Submits payment of the annual fee on or before the first day of December following the July billing, effective with the July, 1994 2008 billing.

(6) Entitlement to the special fee shall be on an annual basis coinciding with the city's fiscal year commencing July 1st of each calendar year through June 30th of the subsequent calendar year. Application for the fiscal year special fee entitlement must be received by the city on or before June 1st of the preceding fiscal year in order to be considered for approval. The form of application shall be approved by the mayor, and such forms shall be made available in city hall. This special fee shall be transferable and refundable.

(c) The administrative authority is authorized to make, and from time to time amend as the need arises, such rules not inconsistent with the provisions of this chapter as may be reasonable, necessary and proper to permit the equitable application of the collection fees in all circumstances. The administrative authority shall have the authority to make such adjustments to fees as are necessary and equitable.

SECTION 6. REPEALER. All ordinances or parts of ordinances in conflict with the

provisions of this ordinance are hereby repealed. These are: Ord. 5012 § 1, 1991, Ord. 5020 § 1, 1991, Ord. 4817 § 1, 1987, Ord. 5169 § 1, 1994, and Ord. 5158 § 1, 1994.

SECTION 7. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for

any reason declared illegal or void, then the lawful provisions of this ordinance which are

severable from said unlawful provisions shall be and remain in full force and effect, the same as

if the ordinance contained no illegal or void provisions.

SECTION 8. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest:

JUDITH RIDGELEY City Clerk

First Consideration: May 12, 2008

Second Consideration: _____

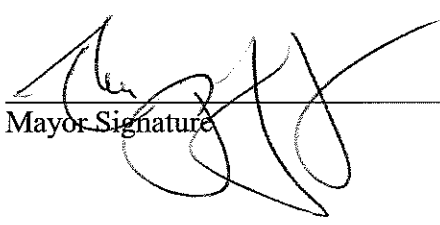
Public Hearing: _____

Third Consideration: _____

Council Communication

Department: Health – Solid Waste Division Case/Project No. Applicant: Donn Dierks	Ordinance No. <u>6002</u> Resolution No. <u> </u>	1 st Reading: <u>May 5, 2008</u>
Subject/Title Changes to Municipal Code - Chapter 4.12 – Solid Waste Collection and Disposal Changes to Municipal Code - Chapter 2.08.040 – Fees and charges under 4.12.110(a)(b) & (c)		
Background/Discussion With the implementation of curbside recycling, there are changes to Chapter 4.12 of the Municipal Code that are needed. Moving from unlimited solid waste collection to a limited collection is the most dramatic change. New definitions of curbside recycling and recyclable materials were also added. Yard waste and recyclable collections were explained in detail. With the new city collection contractor starting on July 1 st , there is a need to increase the garbage collection fee. The low income allowance was increased as was the low income fee. Since we are putting limitations on the amount of trash collected, a extra bag charge was also included.		
Recommendation I would recommend that the Mayor and City Council approve the revisions to Chapter 4.12 and to the fee changes in 2.08.040.		

Department Head



Mayor Signature

3E

Inter-Office Memo

City Of Council Bluffs

Department of Public Health

5/5/08

To: Mayor Hanafan

From: Donn Dierks – Director of Public Health

RE: Changes to Municipal Code – Chapter 4.12 – Solid Waste Collection and Disposal as and subsequent Schedule of Fees Ordinance Raising the Residential Solid Waste Collection and Disposal Fees from \$12.00/month to \$16.00/month.

With the implementation of curbside recycling Chapter 4.12 had to amended to include several changes in the way collection of solid waste will be conducted in Council Bluffs. The major change will put a limitation on the number of bags of refuse a residential customer can place at curbside.

With the approval of the new solid collection contract, current fees will not adequately cover the expenses incurred by the Solid Waste Enterprise Fund. The attached spreadsheet compares the expenses and revenues for the five year contractual period.

Consequently, I would recommend the changes to Chapter 4.12 be approved as well as current rate for residential solid waste collection service, disposal and other solid waste management programs be increased by \$4/month to a rate of \$192.00/year (\$16.00/month).

Concur: Thomas P. Hanafan – Mayor

ORDINANCE NO. 6002

AN ORDINANCE amending Chapter 2.08 "Schedule of Fees" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 2.08.040 "Fees and charges authorized in Title 4", and by enacting a new Section 2.08.040 "Fees and charges authorized in Title 4" to amend fees for solid waste collection and disposal.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 2.08 "Schedule of Fees" of the Council Bluffs Municipal Code be and the same is hereby amended by repealing Section 2.08.040 "Fees and charges authorized in Title 4" and enacting a new Section 2.08.040 "Fees and charges authorized in Title 4", to read as follows:

2.08.040 Fees and charges authorized in Title 4.

Municipal Code Section	Description of License, Fee, or Permit	Charge
4.12.090	Commercial Collection (Annual fee)	\$ 40.00/pickups 75.00/packers/ large trucks
4.12.110(a)	Residential Solid Waste Collection and Disposal	140.00/year <u>192.00/year</u>
4.12.110(b)	Special Residential Solid Waste Collection and Disposal for applicants whose combined gross household income does not exceed \$12,000.00 <u>\$13,690.00</u>	70.00/year <u>96.00/year</u>
4.12.110(c)	<u>Extra bag charge</u>	<u>2.50/bag</u>

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ordinance 5768 § 2 (part), 2003.

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN

Mayor

Attest: _____

JUDITH RIDGELEY

City Clerk

First Consideration: May 12, 2008

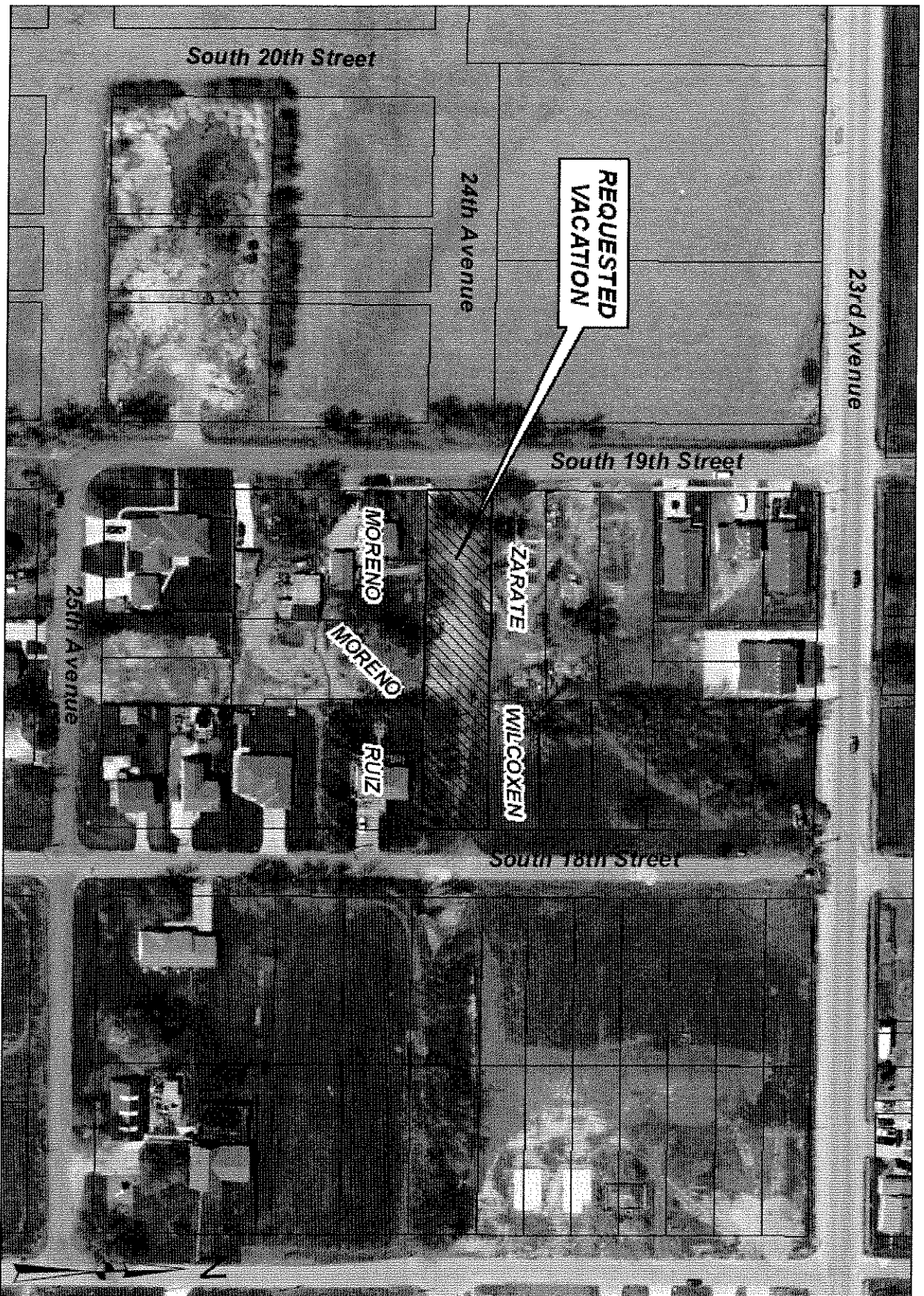
Second Consideration: _____

Public Hearing: _____

Third Consideration: _____

Council Communication

Department: Community Development Case # SAV-08-004 Applicant: Frank N. and Judith E. Ruiz	Resolution of Intent No. _____ Resolution to Dispose No. <u>08-181</u>	City Council: 6/23/08 Planning Commission: 06/10/08 Set Public Hearing: 06/23/2008 Public Hearing:
Subject/Title Request of Frank N. and Judith E. Ruiz, 2404 South 18 th Street, Council Bluffs, IA 51501 to vacate 24 th Avenue right-of-way between South 18 th and South 19 th Streets and abutting Lot 6, Wyatt 2 nd Subdivision and abutting Blocks 21 and 36, Railroad Addition.		
Background Frank and Judith Ruiz are requesting vacation of 24 th Avenue right-of-way between South 18 th and South 19 th Street so they can purchase the portion which abuts their property at 2404 South 18 th Street. This right-of-way, which is unimproved, measures 66 feet wide by 330 feet long for a total of 21,780 square feet. MidAmerican Energy Company has overhead electric distribution facilities located within this right-of-way. They would need to preserve easement rights for the existing facilities as well as extension of facilities to serve any new development along 24 th Avenue. Property owners Ruiz (applicant), Moreno and Zarate have returned their petitions stating they would be willing to purchase their respective portions of right-of-way. No response has been received from Wilcoxon.		
Comments 1. Vacation of this portion of 24 th Avenue would land lock property on the south side. Before this right-of-way can be vacated, the property would need to be replatted. 2. 24 th Avenue directly to the east between South 17 th and South 18 th Streets has already been vacated. Because of the continuing development in the immediate area, this right-of-way could be needed in the near future.		
Recommendation The Community Development Department recommends denial of the request to vacate 24 th Avenue right-of-way between South 18 th and South 19 th Streets and abutting Lot 6, Wyatt 2 nd Subdivision and abutting Blocks 21 and 36, Railroad Addition for reasons stated above.		
Public Hearing Frank Ruiz, 2404 South 18 th Street, Margo Moreno, 2403 South 19 th Street and Victoria Zarate, 2323 South 19 th Street appeared before the Planning Commission in favor of the request. No one appeared in opposition.		
Planning Commission to City Council The Planning Commission concurs with the Community Development Department to recommend denial of the request to vacate 24 th Avenue right-of-way between South 18 th Street and South 19 th Street for the reasons noted in the staff report. VOTE: Aye 7 Nay 1 Abstain 0 Absent 3 Motion Carried.		
Attachments: Map showing requested right-of-way vacation Prepared By: Rebecca Sall, Planning Technician, Community Development Department		



CASE #SAV-08-004

Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 08-181

A RESOLUTION OF INTENT TO VACATE 24th AVENUE RIGHT-OF-WAY BETWEEN SOUTH 18TH AND SOUTH 19TH STREETS AND ABUTTING LOT 6, WYATT 2ND SUBDIVISION AND ABUTTING BLOCKS 21 AND 36, RAILROAD ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, Frank N. and Judith E. Ruiz requests vacation of 24th Avenue right-of-way between South 18th and South 19th Streets and abutting Lot 6, Wyatt 2nd Subdivision and abutting Blocks 21 and 36, Railroad Addition., and;

WHEREAS, this City Council hereby declares its intent to consider disposition of this City right-of-way by conveying and quitclaiming all of its right, title and interest in it to the abutting property owner(s).

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That this City Council hereby declares its intent to consider disposition of the above described City property;
and

BE IT FURTHER RESOLVED

That a public hearing on the City's intent to dispose of this property is hereby set for July 14, 2008.

ADOPTED
AND
APPROVED: _____, 2008

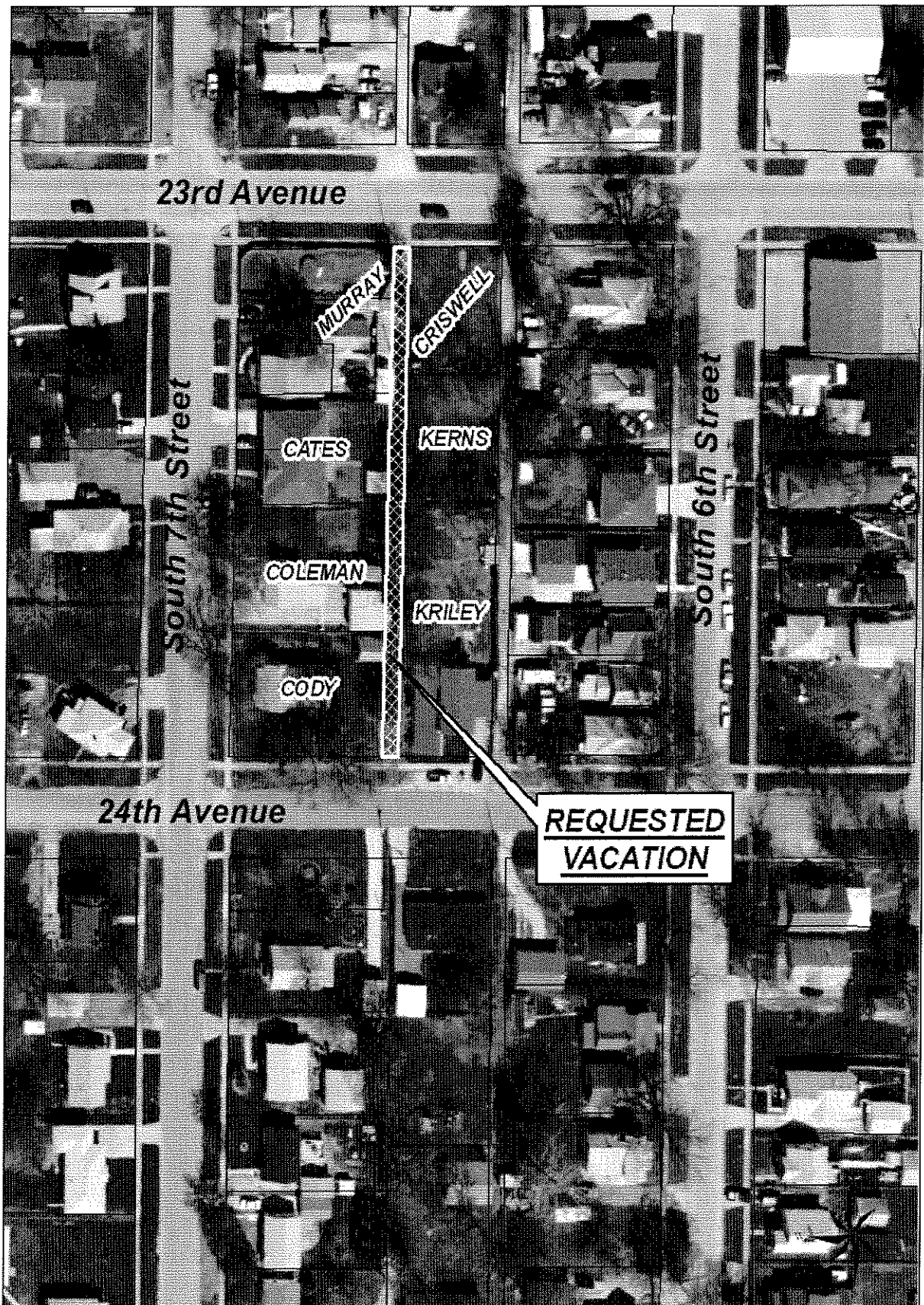
Thomas P. Hanafan Mayor

ATTEST: _____
Judith H. Ridgeley, City Clerk

Council Communication

Department: Community Development Case # SAV-08-005 Applicant: Mark S. Kriley	Resolution of Intent No. _____ Resolution to Dispose No. <u>08-182</u>	City Council: 6/23/08 Planning Commission: 06/10/08 Set Public Hearing: 06/23/2008 Public Hearing:
Subject/Title		
Request of Mark S. Kriley, 606 – 24 th Avenue, Council Bluffs, IA 51501 to vacate the West north/south alley in McGee’s Subdivision of Block 21, Hughes and Doniphan’s Addition. This alley runs between 23 rd and 24 th Avenues, east of South 7 th Street.		
Background		
<p>Mark Kriley owns the property at 606 – 24th Avenue and is requesting vacation of the above mentioned alley which abuts his property on the west. The alley is open but it is not improved. It measures 11 feet wide by 330 feet long for a total of 3,630 square feet. Two properties on the north side of the block use the alley as access the rear of the properties.</p> <p>MidAmerican Energy has overhead electric distribution facilities within this alley and will need to maintain truck access in order to service the feeds to homes between 2301 and 2321 South 7th Street. If the alley is vacated, an easement will need to be retained.</p> <p>There are seven property owners along this alley including the applicant. Evelyn Coleman, 2317 South 7th Street and Robert and Mary Criswell, owners of 615 – 23rd Avenue, are opposed and unwilling to accept their portions of right-of-way. Steven K. and Carolyn A. Cates, 2309 South 7th Street, is also opposed to the request but is willing to acquire their portion if the vacation is approved. W. Lyle and Ruth M. Cody, 2321 South 7th Street, is in favor of the requested vacation and willing to acquire their portion.</p>		
Comments		
<ol style="list-style-type: none">1. This alley is not improved but is open and used for access by at least two residents on the north side of the block.2. MidAmerican Energy has facilities within the right-of-way and need to maintain access.3. Three of the seven abutting owners are opposed to the requested vacation.		
Recommendation		
The Community Development Department recommends denial of the request to vacate the West north/south alley in McGee’s Subdivision of Block 21, Hughes and Doniphan’s Addition for reasons stated above.		
Public Hearing		
Mark Kriley, 606 24 th Avenue appeared before the Planning Commission in favor of the request. No one appeared in opposition.		
Planning Commission to City Council		
The Planning Commission concurs with the Community Development Department to recommend denial of the request to vacate the west north/south alley in McGee’s Subdivision of Block 21, Hughes and Doniphan’s Addition for the reasons noted in the staff report.		
VOTE: Aye 8 Nay 0 Abstain 0 Absent 3 Motion Carried		
Attachments: Map showing requested right-of-way vacation		
Prepared By: Rebecca Sall, Planning Technician, Community Development Department		

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Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 08-182

A RESOLUTION OF INTENT TO VACATE THE WEST NORTH/SOUTH ALLEY IN MC GEE'S SUBDIVISION OF BLOCK 21, HUGHES AND DONIPHAN'S ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, Mark S. Kriley requests vacation of the West north/south alley in McGee's Subdivision of Block 21, Hughes and Doniphan's Addition. This alley runs between 23rd and 24th Avenues, east of South 7th Street., and;

WHEREAS, this City Council hereby declares its intent to consider disposition of this City right-of-way by conveying and quitclaiming all of its right, title and interest in it to the abutting property owner(s).

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That this City Council hereby declares its intent to consider disposition of the above described City property; and

BE IT FURTHER RESOLVED

That a public hearing on the City's intent to dispose of this property is hereby set for July 14, 2008.

ADOPTED
AND
APPROVED: _____, 2008

Thomas P. Hanafan Mayor

ATTEST: _____
Judith H. Ridgeley, City Clerk

Council Communication

Department: Community Development Case #SAV-08-006 Applicant: Matthew I. and Connie J. Solon	Resolution of Intent No. _____ Resolution to Dispose No. <u>08-183</u>	City Council: 6/23/08 Planning Commission: 06/10/08 Set Public Hearing: 06/23/2008 Public Hearing:
Subject/Title Request of Matthew I. and Connie J. Solon, 1741 Henry Street, Council Bluffs, IA 51503 to vacate the north/south alley abutting Lots 9 through 16, Block 2, Mynster Place and Lot 4, Auditor's Subdivision of the NW1/4 SW1/4 of Section 19-75-43 and also abutting Lot 66 and Out Lot A, Vergamini Seventh Addition. This portion of alley is located west of Henry Street and 385 feet north of Elliott Street.		
Background Matthew and Connie Solon own the majority of the property abutting the subject alley. They wish to vacate the alley so they can acquire their portion. This is a land-locked alley that is unopened and unimproved and measures 15 feet wide by 375 feet long. The south portion was vacated by Ordinance #4502 on May 23, 1983. There are no utilities within the subject right-of-way.		
Recommendation Because vacating the alley will eliminate potential liability and it is not necessary to meet the City's future needs, the Community Development Department recommends vacating the north/south alley abutting Lots 9 through 16, Block 2, Mynster Place and Lot 4, Auditor's Subdivision of the NW¼ SW¼ of Section 19-75-43 and also abutting Lot 66 and Out Lot A, Vergamini Seventh Addition.		
Public Hearing Connie Solon, 1741 Henry Street appeared before the Planning Commission in favor of the request. No one appeared in opposition.		
Planning Commission to City Council The Planning Commission recommends vacation and disposition of the north/south alley abutting Lots 9 through 16, Block 2, Mynster Place and Lot 4, Auditor's Subdivision of the NW¼ SW¼ of Section 19-75-43.		
VOTE: Aye 8 Nay 0 Abstain 0 Absent 3 Motion Carried		
Attachments: Map showing requested right-of-way vacation Prepared By: Rebecca Sall, Planning Technician, Community Development Department		





Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 08-183

A RESOLUTION OF INTENT TO VACATE THE NORTH/SOUTH ALLEY ABUTTING LOTS 9 THROUGH 16, BLOCK 2, MYNSTER PLACE AND LOT 4, AUDITOR'S SUBDIVISION OF THE NW1/4 SW1/4 OF SECTION 19-75-43 AND ALSO ABUTTING LOT 66 AND OUT LOT A, VERGAMINI SEVENTH ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, Matthew I. and Connie J. Solon requests vacation of the north/south alley abutting Lots 9 through 16, Block 2, Mynster Place and Lot 4, Auditor's Subdivision of the NW1/4 SW1/4 of Section 19-75-43 and also abutting Lot 66 and Out Lot A, Vergamini Seventh Addition. This portion of alley is located west of Henry Street and 385 feet north of Elliott Street, and;

WHEREAS, this City Council hereby declares its intent to consider disposition of this City right-of-way by conveying and quitclaiming all of its right, title and interest in it to the abutting property owner(s).

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That this City Council hereby declares its intent to consider disposition of the above described City property;
and

BE IT FURTHER RESOLVED

That a public hearing on the City's intent to dispose of this property is hereby set for July 14, 2008.

ADOPTED
AND
APPROVED: _____, 2008

Thomas P. Hanafan Mayor

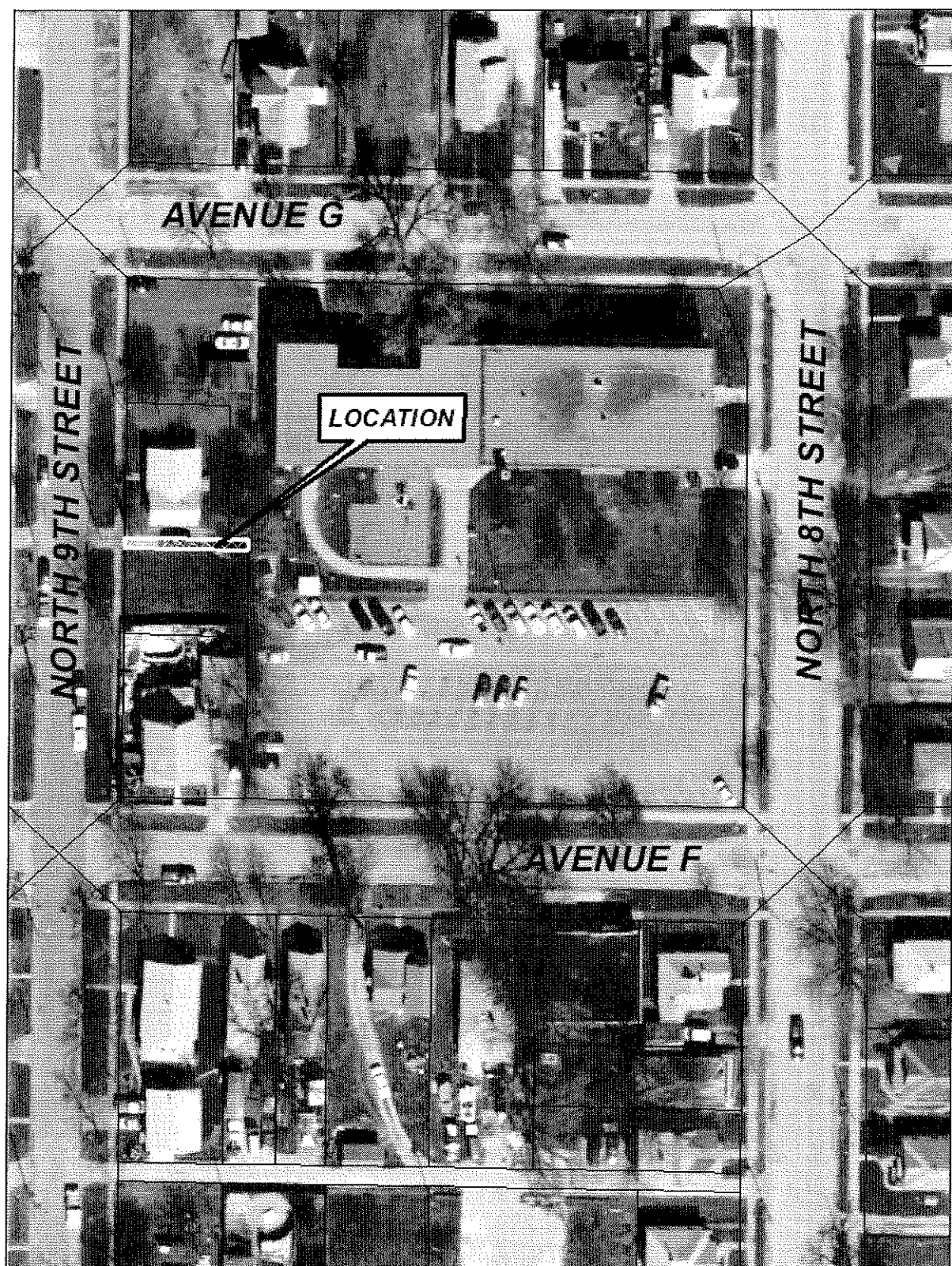
ATTEST: _____
Judith H. Ridgeley, City Clerk

Council Communication

Department: Community Development Offer To Buy City Property Applicant: Jolene F. Wetmore Revocable Trust	Resolution of Intent No. <u>08-184</u> Resolution to Dispose No. _____	Set Public Hearing: 06/23/08 Public Hearing: 07/14/08
Subject/Title Request of Jolene F. Wetmore Revocable Trust, 619 North 9 th Street, Council Bluffs, IA 51501, to purchase the South 1/2 of the vacated east/west alley abutting the North 45 feet of Lot 12 and the North 45 feet of the West 10 feet of Lot 11, Block 7, Hall's Addition.		
Background/Discussion Jolene Wetmore has submitted an Offer to Buy part of a vacated alley, as described above, which abuts her property at 619 North 9 th Street. She owns the parcels on both sides of the vacated right-of-way. This alley was vacated on June 22, 1987 by Ordinance #4800 and is located between Avenue F and Avenue G, from North 8 th to North 9 th Street. This portion was never transferred. It measures 5 feet by 65 feet for a total of 375 square feet. The <i>Policy and Procedures for Alley, Street and Right-of-way Vacations</i> establishes the price of vacated right-of-way as follows: \$75.00 for the first 300 square feet, then \$0.15 a square foot up to 5,000 square feet, and \$0.50 a square foot thereafter. Under this policy, the price for this portion of right-of-way would be \$78.75. The applicant has offered \$25.00.		
Recommendation The Community Development Department recommends disposal of the South 1/2 of the vacated east/west alley abutting the North 45 feet of Lot 12 and the North 45 feet of the West 10 feet of Lot 11, Block 7, Hall's Addition for the sum of \$78.75.		
Attachment: Location map. Prepared By: Rebecca Sall, Planning Technician, Community Development Department		



OFFER TO BUY - WETMORE



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 08-184

A RESOLUTION OF INTENT TO DISPOSE OF EXCESS CITY PROPERTY VACATED BY ORDINANCE 4800, DATED JUNE 22, 1987.

WHEREAS, Ordinance Number 4800 vacated the east/west alley in Block 7, Hall's Addition which is located between Avenue F and Avenue G, from North 8th to North 9th Street; and

WHEREAS, Jolene F. Wetmore Revocable Trust owns the North 45 feet of Lot 12 and the North 45 feet of the West 10 feet of Lot 11, Block 7, Hall's Addition; and

WHEREAS, the applicant has submitted an *Offer to buy* for the South 1/2 of the vacated alley abutting her property located at 619 North 9th Street; and

WHEREAS, the City hereby expresses its intent to dispose of said portion of this alley; and

WHEREAS, said disposal shall be in accordance with the City's *Policy and Procedures for Alley, Street and Right-of-way Vacations*.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the City Council hereby declares its intent to dispose of the above described City property; and

BE IT FURTHER RESOLVED

That a public hearing on the City's intent to dispose of this property is hereby set for July 14, 2008.

ADOPTED
AND
APPROVED: _____, 2007

Thomas P. Hanafan Mayor

ATTEST: _____
Judith H. Ridgeley City Clerk

COUNCIL COMMUNICATION

Department: Public Works
Case/Project No.: _____
Applicant: _____

Ordinance No. _____
Resolution No. 08-185

Council Action June 23, 2008

SUBJECT/TITLE

Council consideration of a resolution setting a public hearing for 7:00 p.m. on July 14, 2008, for Assessing of Costs for Securing Certain Buildings within the City.

BACKGROUND/DISCUSSION

- The Building Division found certain vacant and unsecured buildings that were not being maintained by the owners. These buildings were not in compliance with Chapter 8.54 of the Municipal Code. The Building Division abated the nuisance according to code by contracting the buildings to be secured.
- The Contractor was paid from the General Fund.
- For a procedure of assessment of the abated nuisance, we are doing it in accordance to the *Uniform Code for the Abatement of Dangerous Buildings* as adopted and amended, a requirement is made that when the City Clerk receives an Account of Expense Report, then the City Council is to set a date for public hearing. Also, all objections or protests must be filed with the City Clerk **PRIOR** to the public hearing.
- These properties were declared a nuisance that had certain building which were secured as follows:

Property Address	Addition	Blk	Lot	Parcel #	Charged	%10 Admin Fee	Total	Done
112 No. 7 th Street	Bayliss 1 st Add. N75' S150'	17	1 & 2	7544 25 384 021	\$351.30	\$35.13	\$386.43	06/28/08
1113 22 nd Avenue	Burns Add.	5	6 & 7	7444 02 291 003	\$144.89 \$180.35	\$14.48 \$18.04	\$159.31 \$198.39	01/26/08 05/21/08
352 Scott Street	Allisons Add.	1	1	7544 25 338 020	\$281.65	\$28.17	\$309.82	07/15/07
3436 Avenue A	Ferry Add.	16	7	7544 28 483 021	\$311.68 \$161.43	\$31.17 \$16.14	\$342.85 \$177.57	01/31/08 05/20/08
228 So. 1 st Street	Original Plat N 9'		103 & 104	7544 25 481 022	\$177.68	\$17.77	\$195.45	02/18/08
3445 4 th Avenue	Ferry Add.	10	5	7544 33 238 004	\$280.36	\$23.04	\$303.40	03/17/08
1619 7 th Avenue	Everetts Add.	33	2	7544 35 266 005	\$374.45	\$37.45	\$411.90	08/12/07
827 4 th Avenue	Bayliss 2 nd Add.	8	4	7544 37 153 002	\$244.68	\$24.47	\$269.15	02/03/08

RECOMMENDATION

Approval of this resolution

RESOLUTION

No. 08-185

**RESOLUTION REQUESTING THE CITY CLERK TO PUBLISH NOTICE
AND SET A DATE FOR PUBLIC HEARING ON THE ASSESSING OF COSTS
FOR SECURING CERTAIN BUILDINGS WITHIN THE
CITY OF COUNCIL BLUFFS, IOWA**

- WHEREAS: the Building Division of the Public Works Department of the City of Council Bluffs, Iowa, has contracted for the securing of certain buildings; and
- WHEREAS: the City now desires to assess the costs for this project back to the property that had buildings that were secured; and
- WHEREAS: the Building Division requests that the City Clerk publish the Notice and set the date of Public Hearing for July 14, 2008 at 7:00 p.m. in the Council Bluffs Council Chambers of City Hall.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the City Clerk will publish the Notice and set the date of Public Hearing for July 14, 2008, at 7:00 p.m. in the Council Bluffs Council Chambers of City Hall for the assessment of the costs for certain projects back to the properties that had buildings that were secured.

ADOPTED

AND

APPROVED June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith Ridgeley, City Clerk

Council Communication

Department: Community Development Case #SAV-08-002 Applicant: Fraternal Order of Eagles (Eagles Club)	Resolution of Intent No. <u>08-163</u> Resolution to Dispose No. <u>08-186</u>	City Council: 6-09-08 Planning Commission: 05/13/08 Set Public Hearing: 6/9/08 Public Hearing: 6/23/08
Subject/Title		
Request of the Fraternal Order of Eagles (Eagles Club), 1530 Avenue F, represented by Don Williams, Trustee, to vacate the east/west alley in Block 10, Mullin's Subdivision. This alley runs from North 15 th to North 16 th Street, between Avenue F and Avenue G.		
Background		
<p>The Eagles Club is requesting vacation of the above described alley so they may acquire the portion abutting their property which consists of the south half of the block between Avenue F and Avenue G, North 15th and North 16th Streets. The alley, which is open and improved with gravel, measures 10 feet wide by 360 feet long for a total of 3,600 square feet.</p> <p>The only other property owners in this block besides the applicant consist of the City, which owns 5 vacant lots on the east end of the block and Randy and Connie Black, who own the bakery outlet at 1535 Avenue G. No response has been received from Mr. and Mrs. Black regarding this requested vacation.</p> <p>MidAmerican Energy, Qwest and Cox Communications all have facilities within this right-of-way. Sanitary sewer is also located in the alley. An easement will need to be retained.</p>		
Recommendation		
<p>Because vacating the alley will eliminate potential liability and it is not necessary to meet the City's future transportation needs, the Community Development Department recommends vacating the east/west alley in Block 10, Mullin's Subdivision, subject to the retention of a permanent utility easement.</p>		
Public Hearing		
<p>Don Williams appeared before the Planning Commission in favor of the request. No one appeared in opposition.</p>		
Planning Commission Recommendation		
<p>The Planning Commission recommends vacating and disposing of the east/west alley in Block 10, Mullin's Subdivision, subject to retention of a permanent utility easement.</p>		
<p>VOTE: Aye 10 Nay 0 Abstain 0 Absent 1 Motion Carried.</p>		
<p>Attachments: Map showing requested right-of-way vacation Prepared By: Rebecca Sall, Planning Technician, Community Development Department</p>		

Approved by: Donald D. Gross, Director, Community Development Department

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RESOLUTION NO. 08-186

A RESOLUTION TO VACATE AND TO DISPOSE OF THE EAST/WEST ALLEY IN BLOCK 10, MULLIN'S SUBDIVISION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: the east/west alley in Block 10, Mullin's Subdivision and running from North 15th to North 16th Street, between Avenue F and Avenue G, City of Council Bluffs, Pottawattamie County, Iowa, is of no benefit to the public and should be vacated; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owners; and

WHEREAS, this conveyance is subject to the reservation of a permanent and perpetual utilities easement of way in favor of the City of Council Bluffs, for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary and proper, and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the City, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the above-described city right-of-way is hereby vacated and conveyed as follows:

The City of Council Bluffs and all successors in interest: The North 1/2 of the vacated east/west alley abutting Lots 1 through 5, Block 10, Mullin's Subdivision.

Randy and Connie Black and all successors in interest: The North 1/2 of the vacated east/west alley abutting Lots 6 through 8, except state, Block 10, Mullin's Subdivision.

Fraternal Order of Eagles CB and all successors in interest: The South 1/2 of the vacated east/west alley abutting Lots 9 through 13, except state, Block 10, Mullin's Subdivision.

First Federal Savings and Loan Association, c/o Eagles, and all successors in interest: The South 1/2 of the vacated east/west alley abutting Lots 14 through 16, Block 10, Mullin's Subdivision.

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute this resolution conveying the City's interest in the above-described alley right-of-way in consideration of the vacation application fee already paid, and;

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and any attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED

AND

APPROVED: June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this _____ day of _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Judith H. Ridgeley, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Judith H. Ridgeley, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

Council Communication

Department: Community Development Case #SAV-08-003 Applicant: Community Development Department	Resolution of Intent No. <u>08-164</u> Resolution to Dispose No. <u>08-187</u>	City Council: 6-9-08 Planning Commission: 05/13/08 Set Public Hearing: <u>06/09/08</u> Public Hearing: <u>06/23/08</u>
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Subject/Title

Request of the Community Development Department to vacate certain rights-of-way in Railroad Addition lying north of 23rd Avenue and south of Union Pacific Railroad yard as follows:

1. South 15th Street abutting Blocks 4 and 5
2. Both north/south alleys in Block 6
3. South 17th Street abutting the North 82.5 feet of Blocks 6 and 7

Background/Discussion

The City of Council Bluffs has recently purchased all of Blocks 5 and 6 (except the North 15 feet) and the North 1/2 of Block 7 (except the North 15 feet), Railroad Addition. These properties are located north of 23rd Avenue and south of the UPRR yard between South 15th and South 18th Streets. The Community Development Department is proposing vacation of a portion of South 15th and South 17th Street and the north/south alleys in Block 6 as shown on the attached map in order to assemble these parcels which will be used for additional 23rd Avenue right-of-way, a pedestrian/bicycle trail and open/green space. The City will retain ownership of all vacated right-of-way.

William and Mary Phillips own the property at 2210 South 17th Street. Access to this property will not be affected by the vacation of South 17th Street because access to this property is via 23rd Avenue. Prior to the Planning Commission meeting, the Phillips' asked that the right-of-way adjacent to their property not be vacated. It has been removed from the recommendation.

Overhead and underground facilities are located within the subject portions of South 15 and South 17th Streets. Utility easements will need to be retained

Recommendation

The Community Development Department recommends vacating South 15th Street right-of-way abutting Blocks 4 and 5, both north/south alleys in Block 6 and South 17th Street right-of-way abutting the North 82.5 feet of Blocks 6 and 7, all in Railroad Addition, subject to an easement being retained in these portions of South 15th and South 17th Streets.

Public Hearing

Gayle Malmquist appeared before the Planning Commission in favor of the request. No one appeared in opposition.

Planning Commission Recommendation

The Planning Commission recommends vacating South 15th Street right-of-way abutting Blocks 4 and 5, both north/south alleys in Block 6 and the South 17th Street right-of-way abutting the north 82.5 feet of Blocks 6 and 7, all in Railroad Addition, subject to retention of a permanent utility easement in those portions of vacated South 15th and South 17th Streets.

VOTE: Aye 10 Nay 0 Abstain 0 Absent 1 Motion Carried.

Attachments

Attachments: Map showing requested right-of-way vacation

Prepared By: Rebecca Sall, Planning Technician, Community Development Department

RESOLUTION NO. 08-187

A RESOLUTION AUTHORIZING THE VACATION OF SOUTH 15TH STREET ABUTTING BLOCKS 4 AND 5, BOTH NORTH/SOUTH ALLEYS IN BLOCK 6 AND SOUTH 17TH STREET ABUTTING THE NORTH 82.5 FEET OF BLOCKS 6 AND 7, ALL IN RAILROAD ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: South 15th Street abutting Blocks 4 and 5, both north/south alleys in Block 6 and South 17th Street abutting the North 82.5 feet of Blocks 6 and 7, all in Railroad Addition and located north of 23rd Avenue and south of the Union Pacific Railroad yard, City of Council Bluffs, Pottawattamie County, Iowa, is of no benefit to the public and should be vacated with the City retaining ownership of said right-of-way.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the above-described city right-of-way is hereby vacated and is subjected to the reservation of a permanent and perpetual utilities easement of way across the subject portions of South 15th and South 17th Streets; and

BE IT FURTHER RESOLVED

That the City of Council Bluffs will retain ownership of said vacated right-of-way.

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and any attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED
AND
APPROVED: June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this _____ day of _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Judith H. Ridgeley, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Judith H. Ridgeley, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

Planning Case #SAV-08-003